

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

IN RE: Application of Broadband )  
Dynamics, L.L.C. for Authority to )  
Operate as a Reseller of Interexchange )  
Telecommunication Services Within )  
The State of South Carolina and to be )  
Regulated in Accordance with )  
Procedures Established for Alternative )  
Regulation in Order Nos. 95-1734 and )  
96-55 in Docket No. 95-661-C. )

DOCKET NO: 2011 - 445-C

MOTION FOR PROTECTIVE TREATMENT

Introduction

Broadband Dynamics, LLC ("Applicant"), by its attorneys and pursuant to S.C. Code Ann. § 39-8-10, *et seq.*, and all other applicable rules, statutes and regulations, hereby files this Motion for Protective Treatment ("Motion") in the above-captioned proceeding. By this Motion, the Applicant seeks protective treatment by the South Carolina Public Service Commission ("Commission"), of certain commercially-sensitive financial statements attached as *Attachment 5*, filed as Trade Secret to the Application of Broadband Dynamics, LLC for Authority to Operate as a Reseller of Interexchange Telecommunications Services within the State of South Carolina ("Application").

In support of this Motion, the Applicant provides the following:

1. The exact legal name, address and telephone number of the Applicant is:

Broadband Dynamics, LLC  
8757 East Via De Commerico, First Floor  
Scottsdale, AZ 85258  
Telephone: (480)941-0444

RECEIVED

NOV 25 2011

PSC SC  
MAIL / DMS

2. Correspondence or communications regarding this Motion should be addressed to:

Lance J.M. Steinhart, Esq.  
Lance J.M. Steinhart, P.C.  
1720 Windward Concourse, Suite 150  
Alpharetta, Georgia 30005  
(770)232-9200 (Phone)  
(770)232-9208 (Fax)  
[lsteinhart@telecomcounsel.com](mailto:lsteinhart@telecomcounsel.com)

Local Counsel:  
Scott Elliott, Esquire  
Elliott & Elliott, P.A.  
1508 Lady Street  
Columbia, SC, 29201  
803-771-0555 (Phone)  
803-771-8010 (Fax)  
[selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

### **I. Description of Confidential Information.**

3. The Application requires the Applicant to disclose evidence of financial fitness through the submission of documentation of its financial resources and ability to provide the requested service. In conformity with this requirement, the Applicant submits copies of its financial statements. These documents contain highly confidential and strictly proprietary information, the public disclosure of which may result in direct, immediate and substantial harm to the competitive position of the Applicant in South Carolina and elsewhere.

### **II. Grounds for Claim of Confidentiality.**

4. The Applicant is presently immune from a legal obligation to prepare or submit projected financial statements, or any other financial information, to any public entity. As such, the financial statements attached as *Attachment 5* to the Application are not readily available to persons external to Applicant.

5. Because the projected financial statements submitted by the Applicant in support of the Application contain confidential and commercially-sensitive information from which its competitors may derive economic value, the Applicant seeks to protect such material from public disclosure. The Applicant derives independent economic value from the fact that significant, detailed and proprietary information regarding its financial structure and current financing activities is unknown to its competitors. As such, the Company's financial statements are a "trade secret" as that term is used in South Carolina Trade Secrets Act, *S.C. Code Section 39-8-20(5)*. Given this fact,

the disclosure of this information could provide existing and potential competitors, including interexchange carriers (“DCCs”) in South Carolina, as well as in other states in which the Applicant provides or intends to provide telecommunications service, with an unfair and undeserved competitive advantage.

6. The Applicant clarifies herein that its request for protection applies only to the documents attached as *Attachment 5* to the Application. The Applicant is not seeking protection of any type for those reports the Applicant is required to file with the Office of Regulatory Staff (“ORS”) should the relief sought in the Application be granted: the Annual Report Form, Gross Receipts Report, and Universal Service Fund Worksheet.

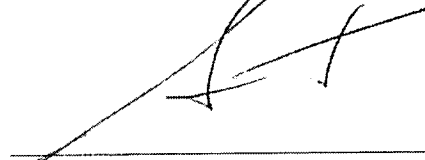
### CONCLUSION

7. The financial information included in support of the Applicant’s Application, for which Confidential Treatment is sought, is both proprietary and competitively-sensitive. The substantial and direct harm that could be caused to the Applicant as a result of any disclosure is real and not speculative. Moreover, to date, no other jurisdiction or governmental agency has required the Applicant to make this information available to the public. For all these reasons, the projected financial statements attached as *Attachment 5* to the Application should be protected from public disclosure by the Commission.

WHEREFORE, the Applicant respectfully requests that the South Carolina Public Service Commission grant this Motion for Protective Treatment with respect to the audited financial statements attached as *Attachment 5* to the Application of Broadband Dynamics, LLC, for Authority to Operate as a Reseller of Interexchange Telecommunications Services within the State of South Carolina and *under seal* as Confidential in this proceeding.

Dated this 24<sup>th</sup> day of October, 2011

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Scott Elliott', written over a horizontal line.

Scott Elliott  
ELLIOTT & ELLIOTT, P.A.  
1508 Lady Street  
Columbia, SC 29201  
Telephone: (803) 771-0555  
[selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)  
Attorneys for Applicant